

**LOCAL RULES OF THE DISTRICT COURT
FOR CLARK COUNTY WASHINGTON**

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LOCAL RULES
of the
DISTRICT COURT OF CLARK COUNTY
STATE OF WASHINGTON
Adopted Effective September 1, 1995
Including amendments through June 30, 2002

The following rules are hereby adopted by the Clark County District Court, superseding all former rules and special rules.

GENERAL RULES

LGR RULE 14 FORMAT FOR PLEADING AND OTHER PAPER

(d) In addition to the format requirements of GR14 and CR10, all pleadings motions and other papers filed with the District Court shall be legibly written or printed with numbered lines, double-spaced type except for generally recognized exceptions such as lengthy quotes or exhibits, twelve (12) point type , and using bonded or at least 20 lb. Grade of paper. Any submission not meeting such requirements may be returned for resubmission in compliance with the rule. (Adopted March 5, 2002)

I. ADMINISTRATIVE RULES

LARLJ 0.1 COURT ORGANIZATION AND MANAGEMENT

The general management of the court shall be vested in the Presiding Judge and his/her duties and powers are as set forth below, pursuant to and in conjunction with ARLJ 5 and GR 29.

LARLJ 5 PRESIDING JUDGE

(a) **Appointment and Term.** The term of Presiding Judge is to be two (2) years in duration, unless terminated earlier by a vote of the majority of all the sitting Judges. The Presiding Judge shall be elected by a majority of the sitting Judges on or before October 31st of each year so that notice of election may be given pursuant to ARLJ 5. The Presiding Judge may be re-elected for additional terms. (Effective 09-01-02.)

(b) **Duties.**

(1) The Presiding Judge will act as Chief Administrative Judge and will see that policy of the Court, as determined by a majority of the Judges, is implemented by the Court Administrator.

(2) The Presiding Judge will call meetings of the Court and preside over said meetings.

(3) The Presiding Judge will adopt and implement a Court schedule with the consent of the majority of the Judges.

(4) The Presiding Judge will be the spokesperson for the Court in response to media inquiries.

(5) The Presiding Judge will be responsible for long range planning.

(6) The Presiding Judge will be responsible for relations with other elected officials, and other duties consistent with ARLJ 5 and GR 29. (Effective 09-01-02)

(7) All major policy decisions will require the approval of a majority of the Judges, however, the Presiding Judge will be responsible for overseeing the budget, implementation of new technologies and the administrative function of the Court. The Presiding Judge may delegate any of his/her responsibilities to other Judges and create departments or committees to handle complex problems or functions as he or she sees fit.

LARLJ 5.1 ACTING PRESIDING JUDGE

(a) Election. The Court may by vote of a majority of the sitting Judges appoint an Acting Presiding Judge to conform to the Administrative Rules for Courts of Limited Jurisdiction.

(b) Duties. The Acting Presiding Judge will assume the duties of the Presiding Judge in the case of a prolonged absence, death or incapacity of the Presiding Judge.

(c) Status. The Acting Presiding Judge shall have the same status as all other sitting Judges with regard to duties and assignments by the Presiding Judge and eligibility to be elected Presiding Judge.

II. CIVIL RULES

LCRLJ 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(d) Filing.

(5) *Motions.* No motion for any order shall be heard unless the papers pertaining to it have been filed with the Clerk.

(6) Documents Not to Be Filed:

(i) Interrogatories and depositions without written permission of Court, unless necessary for the disposition of a motion or objection;

(ii) Unanswered request for admissions unless necessary for the disposition of a motion or objection;

(iii) Photocopies of reported cases, statutes or texts appended to a brief or otherwise, shall not be filed, but may be furnished directly to the Judge hearing the matter.

(iv) Documents or copies thereof which should be received as exhibit rather than part of the court file.

(v) Requests for discovery and/or answer shall not be filed unless necessary for the disposition of a motion or objection.

(7) *Offers of Settlement.* An offer of settlement made pursuant to Chapter 4.84 of the Revised Code of Washington shall not be filed or communicated to the trier of the fact in violation of Section 4.84.280 of the Revised Code of Washington prior to completion of trial. A violation of this order shall result in the denial of the reasonable attorney fee. (See LCRLJ 68A)

LCRLJ 33. INTERROGATORIES TO PARTIES

(e) Limited Interrogatories Without Prior Approval of the Court: Parties Represented by Attorneys. In those civil actions in which all parties are represented by counsel, any party may serve upon any other party no more than two sets of written interrogatories containing not more than 20 questions per set without prior permission of the Court. Any subsections shall be treated as a question for purposes of the 20 questions limitation. Interrogatories authorized under this local rule shall conform to the provisions of Civil Rule 33.

LCRLJ 40. ASSIGNMENT OF CASES

(c) Methods.

(1) *Notice to Set for Trial.* A party desiring to place a case on the trial readiness calendar shall file a "Notice to Set for Trial" on a form prescribed by the Court, a copy of which is attached at the end of this section.

(2) *Certification.* By filing a Notice to Set for Trial, a party certifies that the case is fully at issue with all necessary parties joined, all anticipated discovery has been or will be completed before trial and all other counsel have been served with a copy of the Notice.

(3) *Response to Notice to Set for Trial.* A party who objects to a case being set for trial, or who otherwise disagrees with the information on the “Notice,” shall file and serve a “Response to Notice to Set for Trial” on a form prescribed by the Court within 10 days of the date of mailing or personal service of the “Notice.” (See attached.) The Response shall be noted for hearing the objection not more than 25 days after the date of mailing or personal service of the “Notice to Set for Trial.” No response is necessary if the party agrees with the “Notice to Set for Trial.”

(4) *Call for Trial.* Any case placed on the readiness calendar will be subject to call for trial to be assigned a specific date for trial. The Court will give reasonable notice of the trial date assigned.

(5) *Continuances.* When a case has been called from the readiness calendar and set, it shall proceed to trial or be dismissed, unless good cause is shown for continuance, or the Court may impose such terms as are reasonable and in addition may impose costs upon counsel who has filed a Notice to Set for Trial, or who has failed to object thereto and is not prepared to proceed to trial. No request for continuance, including stipulated motions, will be considered without an affidavit giving the particulars necessitating a continuance in accordance with CRLJ 40(d) and (e). Continued cases may be removed from the trial calendar at the discretion of the court and, if removed, will be recalendared upon filing a new Notice to Set for Trial.

LCRLJ 43. TAKING OF TESTIMONY

(e) Evidence on Motions.

(1) Motions shall be heard on the pleadings, affidavits, published depositions and other papers filed unless otherwise directed by the Court. Any counter-affidavit shall be served upon the opposing party not later than (3) three days prior to the date of the hearing, or movant shall have the option of a postponement of the hearing. Affidavits strictly in reply to a counter-affidavit may be served and considered at the hearing.

LCRLJ 54. JUDGMENTS AND COSTS

(c) Demand for Default Judgment - Method - Ex-Parte Judgments and Orders. Counsel presenting a judgment or seeking entry of an order shall be responsible for seeing that all applicable papers are filed and that the Court file is provided to the Judge. Counsel may present routine ex-parte or stipulated matters based on the record in the file by mail addressed to the assigned Judge. Self addressed, stamped envelopes shall be provided for return of any conformed materials and/or rejected orders. All judgments shall contain a Judgment Summary in conformity with RCW 4.64.030.

(d) Costs - Attorney Fees.

(1) Reasonable attorney fees when allowed by statute or contract will be determined on a case by case basis and awarded in the sound discretion of the Court upon satisfactory justification, which may include documentation of time and charges.

In appropriate cases, when a Default Judgment is entered, there will be a minimum of \$250. Additional reasonable attorney fees may be allowed on the basis of a maximum of 50% of the first \$500.00 of the principal amount of the judgment, plus 10% of any balance over \$500.00, without formal justification or documentation.

(2) If reasonable attorney fees are requested based on a contract provision, the contract provision must be conspicuously highlighted or underlined to be readily ascertainable.

(3) Specific citation of authority must accompany requests for reasonable attorney fees on any basis other than contract provision.

(4) Statutory attorney fees may be granted when reasonable attorney fees are not authorized. (See RCW 12.20.060)

(5) *Offers of Settlement.* Improper communication of an offer of settlement shall result in the denial of reasonable attorney fees (see LCRLJ 5(d)(7) and LCRLJ 68).

LCRLJ 58. ENTRY OF JUDGMENTS

(d) Judgment on a Promissory Note. No judgment on a promissory note will be signed until the original note has been filed with the Court, absent proof of loss or destruction.

LCRLJ 68A. OFFER OF SETTLEMENT

(a) Form. An Offer of Settlement shall clearly state it is an Offer of Settlement and specifically refer to Chapter 4.84 of the Revised Code of Washington.

(1) *Method of Service.* Service shall be made as permitted in CRLJ 5.

(2) *Time of Service.* Service shall be made in accordance with RCW 4.84.280 and/or CRLJ 68.

(3) *Pro-Se Parties.* Offers of Settlement served on pro-se parties shall include a statement that failure or refusal to accept this offer may result in a reasonable attorney fee being assessed at the time of judgment. Failure to include such wording will be grounds for the Court to deny reasonable attorney fees.

LCRLJ 69. EXECUTION, SUPPLEMENTAL PROCEEDINGS AND GARNISHMENTS

(a) Scope. Execution, supplemental proceedings and garnishments are governed by Statute (See Titles 6 and 7 of the Revised Code of Washington).

(1) *Supplemental Proceedings.* In all supplemental proceedings wherein an order is issued pursuant thereto requiring the personal attendance of a party to be examined in open court and in orders to show cause the order must include the following words in capital letters.

YOUR FAILURE TO APPEAR AS SET FORTH AT THE TIME,
DATE, AND PLACE THEREOF MAY CAUSE THE COURT TO
ISSUE A BENCH WARRANT FOR YOUR APPREHENSION AND
CONFINEMENT IN JAIL UNTIL SUCH TIME AS THE MATTER
CAN BE HEARD, UNLESS BAIL IS FURNISHED AS PROVIDED IN
SUCH BENCH WARRANT.

The failure to include such wording will be grounds for the Court to refuse to issue a bench warrant.

(2) *Bench Warrant.* In the event the judgment debtor fails to appear for examination in a supplemental proceeding, the Court may issue a Bench Warrant for the defendant's arrest upon plaintiff's motion, provided that proof of personal service on the judgment debtor of the order to appear for examination has been filed. Such Bench Warrant shall provide for bail in the presumptive amount of \$500.00, unless the size of the judgment warrants setting a greater or lesser amount. Upon arrest on a Civil Bench Warrant, the defendant shall be released by the jail upon posting the bail amount or surety bond. In the event that the defendant is unable to post bail, the defendant shall be brought before the Court at the next regularly scheduled "in custody" time. Verbal or oral notice of the bench warrant hearing will be given to the opposing party or counsel one (1) hour or more prior to the scheduled hearing. In the event the opposing party is unavailable for said hearing, the defendant may be released by order of the District Court conditioned upon the party's appearance at a rescheduled hearing.

Upon completion of the examination of the judgment debtor, the bail posted shall be exonerated unless the Court orders otherwise.

(3) *Judgment Against Garnishee; Order to Disburse.*

(i) No judgment against a garnishee defendant, or order to pay into Court, or order to the clerk to pay out any sum received pursuant to a Writ of Garnishment, will be signed except after judgment is entered against the defendant and until the party who caused the writ to issue shall have filed proof of service and sufficient time shall have elapsed as provided by statute. (RCW 6.27).

(ii) The pattern form of "Judgment and Order to Disburse on Answer of Garnishee Defendant", as proposed by the Office of the Administrator for the Courts of the State of Washington, is hereby adopted for use in Clark County District Court as modified to include a provision for disbursement. A copy of said form is attached at the end of this section. Failure to follow such form may be grounds for denial of the order.

**IN THE DISTRICT COURT OF CLARK COUNTY
IN AND FOR THE STATE OF WASHINGTON**

	)	Cause No. _____
Plaintiff)	
vs.	)	NOTICE TO SET FOR TRIAL
)	
	)	Assigned Judge: _____
Defendant		

TO THE DISTRICT COURT CLERK AND ALL ATTORNEYS & PARTIES LISTED BELOW:

I. NOTICE TO SET FOR TRIAL

Nature of Case: _____ Jury _____ Non-Jury _____

Trial Length: _____ Trial Setting Consideration: _____

Request for jury trial must be accompanied by the jury demand fee specified in RCW 3.62.060

II. READINESS CERTIFICATION

I hereby certify that all pleadings necessary to place the case fully at issue have been filed, all discovery has been/will be completed before trial, and all parties have been served with a copy of this notice. I understand that the Court may impose terms and sanctions upon a party or counsel who is not prepared to proceed to trial on the assigned date in accordance with Local Rule 40(b)(5).

INSTRUCTIONS:

Type names & addresses of all
attorneys and pro se parties below
Attach additional sheet if necessary.

Serve other parties.

File original with District Court Clerk.

Signed: _____

Date: _____

Typed Name: _____

Attorney for: _____

WSBA #: _____

TYPE NAMES AND ADDRESSES OF ALL ATTORNEYS AND/OR PRO SE PARTIES:

()	()
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**IN THE DISTRICT COURT OF CLARK COUNTY
IN AND FOR THE STATE OF WASHINGTON**

)	Cause No. _____
Plaintiff)	
vs.	)	RESPONSE TO NOTICE TO
	)	SET FOR TRIAL
)	
Defendant	)	Assigned Judge: _____

TO THE DISTRICT COURT CLERK AND ALL ATTORNEYS & PARTIES LISTED BELOW:

The undersigned responds to the Notice to Set for Trial filed in this case as follows:

[] Objects to this case being set for trial for the following reason: _____

The matter is hereby noted for hearing pursuant to LR 40(b)(3) as follows:

Date: _____ Time: _____

FAILURE TO NOTE THE OBJECTION FOR HEARING IS DEEMED A WAIVER OF THE
OBJECTION.

[] Disagrees with the information set forth in the Notice to Set for Trial as follows: _____

INSTRUCTIONS:
Type names & addresses of all
attorneys and pro se parties below.

Serve other parties.

File original with District Court Clerk.

Signed: _____

Date: _____

Typed Name: _____

Attorney for: _____

WSBA #: _____

TYPE NAMES AND ADDRESSES OF ALL ATTORNEYS AND/OR PRO SE PARTIES:

()	()
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**IN THE DISTRICT COURT OF CLARK COUNTY
IN AND FOR THE STATE OF WASHINGTON**

Plaintiff,)	
)	
vs.)	
)	
Defendant.)	
)	
Garnishee Defendant.)	
)	

No. _____

**JUDGMENT AND ORDER TO DISBURSE ON
ANSWER OF GARNISHEE DEFENDANT**

I. BASIS

IT APPEARS TO THE COURT THAT:

- 1.1 Plaintiff holds an unsatisfied judgment against the Defendant of \$ _____
plus accrued interest of \$ _____ through (date) _____.
- 1.2 Plaintiff's garnishment costs are:
- | | | |
|-------------------------------------|-----------|--|
| Filing fee | \$ | |
| Service and affidavit fees | \$ | |
| Postage and costs of certified mail | \$ | |
| Answer fee or fees | \$ | |
| Garnishment attorney fee | \$ | |
| Total | \$ | |
- 1.3 Garnishee has answered admitting indebtedness of \$ _____.

II. ORDER

IT IS ORDERED THAT:

- 2.1 Judgment is entered against the Garnishee Defendant in the amount of \$ _____
(the lesser of 1.1 plus 1.2 or 1.3).
- 2.2 Plaintiff shall have judgment against Defendant for accrued interest as stated in paragraph 1.1 and garnishment costs as stated in paragraph 1.2 for a total judgment of \$ _____.
- 2.3 The Garnishee Defendant is directed to pay the sum set forth in paragraph 2.1 above in to the registry of this court. Upon receipt of this sum the judgment against the Garnishee Defendant will be satisfied and the clerk of the court shall enter:
- ☐ A partial satisfaction of the judgment against the defendant leaving a balance of \$ _____.
- ☐ A full satisfaction of the judgment against the Defendant.
- ☐ Disburse said sum of \$ _____ to _____.

Dated: _____
Judge _____

Presented by: _____

III. SMALL CLAIMS RULES

LSC 1. COUNTERCLAIM

The defendant may counterclaim against the plaintiff for an amount up to \$4,000.00. The defendant must notify the plaintiff of such counterclaim at least 21 days prior to the trial date unless waived by the Court. (Amended May 5, 2002)

LSC 2. MOTION TO SET ASIDE DEFAULT JUDGMENT

(a) Filing. A party may file a motion to set aside a default judgment or dismissal entered at time of trial for failure of such party to have appeared for trial. The motion shall set forth “good cause” reasons for having failed to appear for trial.

(b) Time for Motion. The written motion must be filed within 30 days of entry of such default. (Amended May 5, 2002)

(c) Reset Fee. Before the Court will set a hearing on a motion to set aside a default judgment, the moving party must pay a reset fee of \$50.00 to the Court. The reset fee will be paid over to the opposing party regardless of the outcome of the case.

LSC 3. CLERK’S DISMISSAL

In all small claims cases wherein there has been no action of record during the preceding 12 months, the clerk of the Court shall mail notice to the parties that the case will be dismissed by the Court for want of prosecution unless within 30 days following the mailing, action of record is made or an application in writing is made to the Court and good cause shown why it should be continued as a pending case. If such application is not made or good cause is not shown, the Court shall dismiss each such case without prejudice. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

IV. CRIMINAL RULES

LCrRLJ 3.1 RIGHT TO AND ASSIGNMENT OF LAWYER

(d) Assignment of Lawyer.

(1) Unless waived, counsel shall be provided to any person who is financially unable to obtain an attorney without causing substantial hardship to the defendant or the defendant's family.

(2) *Financial Screening.*

(i) The initial interview and financial screening to determine eligibility for counsel at public expense shall be conducted by the County Corrections Department. Said department shall make an immediate determination of eligibility. If a person is found to be partially eligible, a recommendation indicating this shall be completed and sent to the judge.

(ii) The County Corrections Department may perform the initial screening at any time without a referral from the Court as long as the person has not appeared in court. Once a person has appeared, screening may be done only after receipt of a signed referral or as noted in LCrRLJ 3.1(d)(iv) below.

(iii) The County Corrections Department shall not rescreen a defendant to determine eligibility unless it has received a referral signed by a District Court Judge.

(iv) The County Corrections Department shall rescreen, without referral, any defendant who wishes to appeal a conviction in District Court. This rescreening shall be done using Superior Court guidelines.

(v) If at any time it appears that a person has retained private counsel, has funds sufficient to do so, or is otherwise not eligible for defense services, the appointed attorney may notify the Court and ask its guidance. Conversely, if it appears that counsel previously retained by a person has withdrawn, or that a person thought to have funds sufficient to obtain private counsel is not in fact able to do so, the defendant may be referred for a redetermination of eligibility.

(3) *Reimbursement of Attorney Fees.*

(i) Partial ability to pay. A person found to be partially eligible for defense services shall be required to make reimbursement to Clark County as agreed at the time of appointment. The County Corrections Department shall maintain an account in its daily account ledger for repayment of attorney fees.

(ii) Reimbursement not required by appointed counsel. In no case shall appointed counsel set or attempt to obtain reimbursement for the costs of defense services.

LCrRLJ 3.2 PRETRIAL RELEASE

(a) Personal Recognizance.

(1) Designated members of the staff of the Clark County Corrections Department Monitoring Unit are authorized to release persons who are charged with misdemeanor offenses on their own recognizance. When released, the defendant shall be given a date to appear in court as specified in the District Court bail schedule.

(2) The arresting officer shall indicate “to be set” in the space for court date on the citation for any defendant detained at the jail for a misdemeanor or gross misdemeanor. The exception to this occurs when the arresting officer releases the defendant on personal recognizance. In such cases, the officer shall specify a return date for appearance in court as specified in the District Court bail schedule.

(3) When no one from the County Corrections Department Monitoring Unit is on duty, Jail supervisory personnel may grant recognizance to certain defendants charged only with misdemeanor or gross misdemeanor offenses. The defendant shall be given an appearance date as specified in the District Court bail schedule. This authority is to be used for defendants who have been residents of Clark County for more than one year.

(b) Bail.

(1) Misdemeanor bail shall not be combined with felony bail. If cash is received, it shall be kept separate. If a bail bond agent posts bail, he or she shall post separate bonds. A separate bond shall be posted for each new complaint.

(2) If someone other than the defendant posts cash bail, the person receiving the bail shall obtain the correct name and address of the payer.

(3) A defendant who is released on bail shall be given an appearance date as specified in the District Court bail schedule.

(c) Bail Schedule. The Court shall periodically publish a bail schedule which will include any bail schedule and penalty promulgated by the Supreme Court of the State of Washington. The schedule will also include appearance days and times.

Said schedule shall be provided to all law enforcement officers within the county.

Said schedule shall have the force and effect of local court rule for all the courts under the authority of the District Court of Clark County.

(d) Forfeiture. A copy of the Notice of Trial Setting shall be furnished to the bail bond agent for a defendant.

If the defendant fails to appear as directed by the Court, a bail forfeiture shall be immediately issued. The bail bond agent shall have 60 days to locate the defendant. At the end of the 60 days, the full amount of the bond shall be due.

If the bail bond agent presents the defendant to the Court before the 60 days has elapsed, costs may be imposed against the defendant. The costs shall be \$50.00 for failure to appear at arraignment, pretrial or sentencing; \$100.00 for failure to appear for trial; or \$300.00 for failure to appear at a jury trial.

If the defendant fails to appear for sentencing or pretrial or arraignment, but does appear within (5) five days of the original appearance date, the court costs shall be waived. There shall be no such waiver for a defendant who fails to appear for trial.

LCrRLJ 3.3 TIME FOR TRIAL

(h) Continuances. All motions for continuance shall be heard by notice and citation on the appropriate motion docket. Only in extreme emergencies shall the presiding judge or the trial judge consider a motion for continuance without the proper notice and citation.

LCrRLJ 4.1 ARRAIGNMENT

(d) Appearance by Defendant's Lawyer. Attorneys at law, admitted to practice in the State of Washington, may enter a plea of not guilty in writing on all cases filed in the District Court. Defendants are required to appear in person for domestic violence arraignments.

(e) Deferred Prosecution. A petition for deferred prosecution under RCW 10.05 shall be on the form prescribed by the Court, which is attached as an appendix to these rules and available in the District Court clerk's office. [Adopted effective March 12, 1997.]

LCrRLJ 4.5 PRETRIAL PROCEDURES

(a) Pretrial Conference. The court shall set pretrial conferences for all cases where a not guilty plea has been entered. Pro se defendants who enter a plea of not guilty at arraignment shall appear on the date scheduled by the court for a pretrial conference with the prosecuting attorney/city attorney to discuss their cases. Failure to appear for the pretrial conference may result in the issuance of a bench warrant and/or forfeiture of any bail or bond. Defense attorneys shall make arrangements with the prosecuting attorney/city attorney to exchange information and discuss the case.

(b) Pretrial Hearing.

(1) In all cases in which a defendant has entered a plea of not guilty, a pretrial hearing shall be set approximately 45 days after arraignment. Said hearing shall provide an opportunity for plea negotiations, omnibus, resolution of discovery issues, and trial setting. Following the hearing, if a plea is not negotiated, an order shall be entered setting forth the following: (i) discovery schedule, (ii) date and nature of pretrial motions, (iii) date of readiness hearing, (iv) date of trial and (v) time for filing witness lists.

LCrRLJ 4.5 PRETRIAL PROCEDURES (Cont.)

(2) The prosecuting attorney/city attorney, defense attorney, and defendant shall be required to attend the pretrial hearing, with the exception that a defendant represented by counsel may waive his/her appearance on the form prescribed by the court, a copy of which will be made available in the District Court clerk's office. The waiver shall not be executed more than 7 days prior to the pretrial hearing. Absent a waiver, failure to attend may result in the issuance of a bench warrant and/or forfeiture of any bail or bond.

(c) Readiness Hearing. The prosecuting attorney/city attorney, defense attorney and defendant shall appear in court on the date scheduled for readiness hearing to confirm their readiness to proceed with the scheduled trial. In the event the defendant fails to appear, the jury shall be canceled, a bench warrant may be issued, bail or bond may be forfeited, and costs may be imposed at the discretion of the court. In the event the defendant waives the jury trial subsequent to the readiness hearing, costs may be imposed at the discretion of the court.

[Adopted effective March 12, 1997.]

LCrRLJ 4.8 SUBPOENAS

(a) Issuance for Witnesses. If a witness in a criminal matter is to be subpoenaed, the person making the request should prepare the subpoena and present it to the Court for signature on the subpoena. All subpoenas must be prepared in triplicate prior to the presentation for signature.

Any request for more than three subpoenas must be approved by the Court.

LCrRLJ 4.11 PRETRIAL CONFERENCES

[Repealed March 12, 1997]

LCrRLJ 4.12 READINESS HEARINGS

[Repealed March 12, 1997]

ASSIGNED JUDGE: _____

IN THE DISTRICT OF CLARK COUNTY
IN AND FOR THE STATE OF WASHINGTON

<input type="checkbox"/>	STATE OF WASHINGTON	)	NO.
<input type="checkbox"/>	CITY OF VANCOUVER	)	DEFENDANT'S PROMISE TO
	Plaintiff,	)	APPEAR, AND NOTICE OF
		)	APPEARANCE BY ATTORNEY
	vs.)	
)	
)	
	_____)	
	Defendant.		

I the Defendant, promise to appear for my Mandatory Pre-Trial Hearing scheduled at the hour of:
☐ 9:00 a.m. ☐ 1:30 p.m., on _____

I understand that if I do not appear as promised, the judge may order a warrant for my arrest and/or forfeit any bail or bond I have posted.

Defendant's Signature

The undersigned attorney, and witness to the above signature, herein and hereby enters a Notice of Appearance on behalf of the above-named Defendant, and enters a plea of "Not Guilty" on the pending charge(s) under this cause number.

Dated this _____ day of _____, 200_____.

Attorney for Defendant

WSBA # _____

Attorney Name: _____

Address: _____

Case No. _____

Telephone Number: _____

Pretrial Conference is scheduled on _____, at _____ .M.

Copies: White-Court; Yellow-Prosecutor; Pink – Defense Attorney; Gold – Defendant Rev06/01

**DISTRICT COURT OF CLARK COUNTY
IN AND FOR THE STATE OF WASHINGTON**

<input type="checkbox"/> State of Washington)	
<input type="checkbox"/> City of Vancouver	)	NO. _____
<input type="checkbox"/> City of Camas)	
<input type="checkbox"/> City of Washougal	)	PETITION FOR
Plaintiff,	)	DEFERRED PROSECUTION
)	
_____)	
Defendant.)	

I, _____, declare under the penalty of perjury under the laws of the state of Washington that the following is true and correct:

1. I am the Defendant in the above-entitled cause and have been fully advised and understand my rights as an accused, including my right to a jury trial, a speedy trial, the right to testify or remain silent, the right to hear and question the witnesses against me, and the right to call witnesses on my own behalf, and the right to an attorney at all stages of the proceedings.

2. On _____, 20____, I was arrested and charged with _____, which charge is now pending.

3. I am an alcoholic and/or chemical dependent and said charge is the result of alcoholism and/or chemical dependency for which I am in need of treatment.

4. Unless said alcoholism/chemical dependency is treated, the probability of a future reoccurrence of the same charge is great.

5. I agree to pay the cost of a diagnosis to determine the extent of my alcoholism and/or chemical dependency, and pay the cost of treatment if financially able to do so.

6. I have not been on a deferred prosecution program within the last five years.

Case No. _____

7. I acknowledge that I would ordinarily have the right to confront witnesses against me, but as a condition to being granted a deferred prosecution, I hereby stipulate to the admissibility of the facts contained in the police reports upon which the charge in this matter is based, a copy of which is attached hereto and incorporated herein by reference, and acknowledge that the facts contained in said report are sufficient to support a finding of guilt if the court finds cause to revoke the order granting deferred prosecution. I further stipulate that any statements made by me were made knowingly and voluntarily.

8. I understand that by submitting this petition I waive my right to trial within ninety (90) days as provided by CrRLJ 3.3, my right to a speedy trial under the Constitution of the United States and the State of Washington, the right to a jury trial, the right to hear and question witnesses, the right to call witnesses in my own behalf and the right to testify in my own behalf and the right to present a defense to the crime charged. I understand that if the order of deferred prosecution is revoked, my trial will consist only of a judge reading the police reports and other attached materials, including the results of any blood or breath tests, and deciding if I am guilty of the crime(s) charged.

9. I recognize that the deferred prosecution program is an alternative to punishment and I am willing to cooperate fully with the treatment program.

10. The availability, operation and effect of a deferred prosecution has been fully explained to me and I am aware of the minimum statutory treatment program.

11. I understand that the court will not accept a deferred prosecution petition from a person who sincerely believes he/she is innocent of the charge and I do not sincerely believe I am innocent of the charge and I believe that I do suffer from an alcohol and/or chemical dependency problem.

12. I understand that I am not required to submit this petition. I understand that I may proceed to trial, and if found guilty, I may seek suspension of some or all of the fines and incarceration which may be ordered. I further understand that I may seek treatment from private or public agencies at any time, regardless of whether or not I am found guilty of the offense charged.

13. I realize a deferred prosecution shall be conditioned on total abstinence from alcohol and other non-prescribed mind-altering drugs.

14. I understand that if the petition is approved by the court, I may not operate a motor vehicle upon a public highway without a valid operator's license and without proof of liability insurance in an amount not less than that established by RCW 46.29.490.

15. I understand I have a duty to notify the Court and the _____ Attorney's office within ten (10) days of any change in my mailing address and shall maintain a current address for the duration of the deferred prosecution.

Case No. _____

16. I understand the court may order restitution to any victims, payment of court costs, such as a breath test fee and emergency response fee, and costs of probation as a condition of a deferred prosecution and that I may be ordered to attend a Victim's Panel.

17. I understand that the Prosecuting attorney/City attorney may appeal any order granting deferred prosecution which does not comply with the requirements outlined by statute.

18. I understand that this deferred prosecution may be considered for enhancement purposes when imposing mandatory penalties and suspensions for subsequent offenses within a five (5) year period.

19. I understand that if I am accepted for deferred prosecution, I will be issued a probationary driver's license for a period of five years.

DATED this _____ day of _____, 20____ at Vancouver, WA.

DEFENDANT

Presented by:

Attorney for the Defendant

WSBA

My concurrence with the form of this Petition is shown by my signature hereto:

<input type="checkbox"/> State of Washington)	
<input type="checkbox"/> City of Vancouver)	NO. _____
<input type="checkbox"/> City of Camas)	
<input type="checkbox"/> City of Washougal)	ORDER FOR
Plaintiff,)	DEFERRED PROSECUTION
vs.)	
)	
)	
_____)	
Defendant.)	

THIS MATTER having come on regularly for hearing this date the Defendant's Petition for Deferred Prosecution, the Plaintiff appearing by and through its attorney, _____, and the Defendant appearing in person and by and through his/her attorney, _____, and it appearing to the Court that the Defendant has filed a proper Petition for Deferred Prosecution of pending charges and that the Defendant was evaluated by _____, an approved treatment facility; that such treatment facility has filed its report complete with a case history diagnosing the Defendant as an alcoholic or chemical dependent and has set out its findings and recommended treatment plan; and that the Defendant has examined the report, the treatment plan, and conditions of a deferred prosecution and has indicated his/her acceptance and agreement to undertake and to pay the costs of the prescribed treatment; and the court now being fully advised herein, it is hereby

ORDERED:

1. That the treatment plan filed with the Court is hereby approved and the prosecution of the Defendant in this matter is hereby deferred for a two year period from this date;

2. That a copy of the treatment plan outlined in such report is attached to this Order and incorporated herein, and the Defendant's file shall be removed from the regular court docket and filed in the Court's Special Deferred Prosecution file;

3. That a copy of the police report upon which the charge(s) in this matter are based is attached to this order, and shall be used pursuant to the conditions outlined in Defendant's Petition for Deferred Prosecution;

4. That an abstract of the Defendant's acceptance for deferred prosecution shall be sent to the Department of Licensing;

5. That the Defendant shall:

a. Undertake and carry out treatment as prescribed in the attached treatment plan commencing on _____ 20_____;

b. Maintain total abstinence from alcohol and all other non-prescribed mind-altering drugs;

c. Notify the Court and Clark County Corrections within ten (10) days of any change in his/her mailing address and maintain a current address for the duration of the deferred prosecution;

d. Not operate a motor vehicle upon a public highway without proof of liability insurance and a valid operator's license;

e. Pay restitution to _____, in the amount of \$_____ (or to be determined by Corrections) for damages arising out of this incident;

f. Pay the Breath Test Program fee of \$ _____ and pay Emergency Response Restitution in the sum of \$_____;

g. Pay a supervision fee of \$_____ to Clark County Corrections during the period of the referral;

h. Attend and complete the Victim's Panel;

i. Other conditions:_____

6. Specific findings have been made that:

a. The Petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report, including the results of any breath or blood tests;

b. The Petitioner has acknowledged the admissibility and sufficiency of the stipulated facts in any criminal hearing or trial on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; and

c. Petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses in his/her own behalf, the right to present evidence in his/her defense, and the right to a jury trial; and

d. The Petitioner's statements were made knowingly and voluntarily.

7. If the Defendant fails or neglects to carry out or violates any term or condition of: (1) this order, or (2) the treatment plan, or (3) violates any rules of such treatment plan resulting in expulsion, the Court shall upon notice of the failure, neglect, or violation, hold a hearing to determine why the Defendant shall not be removed from the Deferred Prosecution Program.

8. In the event the Court revokes this deferred status or receives notice that the Defendant has been subsequently convicted of a similar offense, the Court shall remove the Defendant's file from the deferred prosecution docket and shall enter judgment pursuant to RCW 10.05.020. However, Petitioner may be allowed to seek suspension of all or some of the fines or incarceration conditioned upon further treatment.

9. _____

DONE IN OPEN COURT this _____ day of _____ 20_____.

JUDGE OF THE DISTRICT COURT

Presented by:

_____, Attorney for Defendant

Approved as to form and content and consent to entry granted this _____ day
of _____ 20_____:

of Attorneys for Plaintiff.

WSBA

<input type="checkbox"/> STATE OF WASHINGTON) <input type="checkbox"/> CITY OF VANCOUVER) <input type="checkbox"/> CITY OF CAMAS) <input type="checkbox"/> CITY OF WASHOUGAL) <div style="text-align: right; padding-right: 20px;">vs.)</div> <div style="text-align: right; padding-right: 20px;">)</div> <div style="text-align: right; padding-right: 20px;">)</div> <hr style="border: 0.5px solid black; margin-bottom: 5px;"/> Defendant.)	NO. _____ DEFENDANT’S WAIVER OF PRESENCE AT PRETRIAL/OMNIBUS HEARING
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------

- 1) No outstanding issues of discovery exist;
- 2) No pretrial motions, other than motions in limine, remain to be litigated before the date of trial; and,
- 3) A readiness hearing date and trial date will be set by the court at the time of the pretrial/omnibus hearing. Defendant agrees to appear on both the readiness hearing date and the trial date, and is aware that failure to do so may result in a warrant and/or forfeiture of any bail or bond by the court.

Case No. _____

Dated this _____ day of _____, 2____.

Defendant

Street Address/City/State

Phone

Presented by:

Defendant's Attorney, WSBA# _____

<input type="checkbox"/> STATE OF WASHINGTON) <input type="checkbox"/> CITY OF VANCOUVER) <input type="checkbox"/> CITY OF CAMAS) <input type="checkbox"/> CITY OF WASHOUGAL) <div style="text-align: right; padding-right: 20px;">Plaintiff,</div> <div style="text-align: center; padding: 10px 0;">v.</div> <div style="border-top: 1px solid black; text-align: center; padding-top: 10px;">Defendant</div>	Case No. _____ <i>ORDER ON PRETRIAL HEARING</i> <input type="checkbox"/> Jury Trial <input type="checkbox"/> Bench Trial Arraignment Date: _____ Speedy Trial Deadline: _____
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I. MANDATORY APPEARANCES

TRIAL DATE IS SET FOR _____, 20____ at _____ a.m./p.m.

☐ Discovery has been completed; OR

☐ Discovery is incomplete and is hereby ordered to be completed no later than:

A. CUSTODIAL STATEMENTS

- ☐ No custodial statements by defendant will be offered in the State's/City's case in chief, or in rebuttal; OR
- ☐ The statements referred to in the State's/City's discovery will be offered and:
- ☐ May be admitted into evidence without hearing by stipulation of the parties; OR
- ☐ Admissibility of these statements is not stipulated, and a pretrial motion hearing will be necessary to determine their admissibility.

Case No. _____

B. OTHER MOTIONS

C. MOTION HEARING

Testimony and argument on all pretrial motions listed above will be heard by the Court on _____, 20____ at _____ a.m./p.m.

THIS ORDER CONSTITUTES NOTICE OF MOTION HEARINGS, READINESS HEARING AND TRIAL. NO FURTHER NOTICE WILL BE GIVEN unless these proceedings are rescheduled. All parties are to be present for any motions noted herein, readiness hearing and trial. A defendant's failure to appear may result in the issuance of a warrant and/or forfeiture of bail or bond.

Dated this _____ day of _____, 20____.

JUDGE _____
Schreiber, Anders, Zimmerman, Eiesland, Fritzler, Swanger

Copy Received:

Prosecuting/City Attorney, WSBA #

Defendant

Defense Attorney, WSBA #

V. INFRACTION RULES

LIRLJ 2.4 RESPONSE TO NOTICE

- (a) **Generally.** A person who has been served with a notice of infraction must respond to the notice within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.
- (b) **Alternatives.** A person may respond to a notice of infraction by: (1) Paying the amount of the monetary penalty in accordance with applicable law, in which case the court shall enter a judgment that the defendant has committed the infraction; (2) Contesting the determination that an infraction occurred by requesting a hearing in accordance with applicable law; or (3) Requesting a hearing to explain mitigating circumstances surrounding the commission of the offense in accordance with RCW 46.63.070(4). (4) Submitting a written statement explaining any mitigating circumstances. The statement shall contain the person's promise to pay the monetary penalty authorized by law. The statement shall be executed in compliance with RCW 9A.72.085, in substantially the following form: I certify [or declare] under penalty of perjury under the laws of the State of Washington that the foregoing is true: I promise to pay the monetary penalty authorized by law and assessed by the court. Date Place Signature _____.
- (c) **Method of Response.** A person may respond to a notice of infraction either personally, by mail, or by Internet e-mail. The response must be sent not later than midnight of the day the response is due.

LIRLJ 2.6 INFRACTION HEARINGS

(c) **Decisions on Written Statements.** Mitigation hearings shall generally be held in open court. The procedure set forth in IRLJ 3.5, allowing decisions on written statements is authorized

[Adopted March 4, 1998; Amended May 5, 2002].

LIRLJ 3.5 DECISION ON WRITTEN STATEMENTS

(a) **Generally.** The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence. (b) **Disposition.** The court will assess a penalty in accordance with rule 3.3. (c) **Notice to Parties.** The court shall notify the parties in writing what penalty was imposed.